

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ASSATA ACEY, : No. 2023-cv-01438

Plaintiff, :

v. :

INDUCTEV, :

Defendant. :

April 11, 2024

Oral deposition of ASSATA
ACEY, taken pursuant to Notice,
held at Fox Rothschild, 747
Constitution Drive, Suite 100,
Exton, Pennsylvania 19341,
beginning at approximately 9:10
a.m., before Mary Hammond, a
Registered Professional Reporter
and Notary Public in the state of
Pennsylvania.

Job No. CS6582623

1 you try and direct your answers, as best you
2 can, directly to the question I'm asking you.

3 A. Yes.

4 Q. At what point in your employment at
5 InductEV did you determine that you felt you
6 had a claim that you could submit to the
7 Courts with respect to discrimination or
8 harassment on the basis of your gender or
9 race, at what point?

10 Not each incident, or what's the
11 first thing that happened that made you think
12 maybe you would, but at what point did you
13 determine that, "I'm" -- "I'm getting
14 discriminated against or harassed here on the
15 basis of my race or gender, and I think I
16 have a claim with the Courts"?

17 A. Okay. So I think that's a
18 different question. I'm going to take a
19 minute to process that.

20 At what point did I think I had an
21 actionable claim on gender or race?

22 I didn't think I had an actionable
23 claim until maybe -- when was that -- oh, my
24 goodness, this is tricky. When did I

1 think...

2 It would have to be maybe the first
3 time that I thought Judy was just blatantly
4 not following protocol. That would probably
5 be -- the phone incident, yeah. So I -- I
6 had my phone broken. But that's not race, is
7 it, completely. Based on -- I felt like the
8 phone incident was too mirky, but that was
9 the first time I considered having an
10 actionable claim against the company.
11 Period.

12 The first time I thought I had --
13 Q. Well, I'm asking you for an
14 actionable claim under Title 7.

15 A. Yes.

16 Q. I don't care if you think that
17 somehow they didn't get paid when they
18 should, or whatever --

19 A. Right.

20 Q. -- with regard to the phone.

21 I'm asking you: At what point, you
22 know, did you wake up in the morning and go,
23 "I think I'm getting discriminated against or
24 harassed at work, and I think I have a claim

1 that I could go to Court with, if I chose to
2 do so" --

3 A. Okay.

4 Q. -- based upon race or gender?

5 A. Attorney Schauer, I think you've
6 interrupted my answers quite a few times
7 already.

8 Is that something that you intend
9 on doing?

10 Q. I will if I need -- well, I
11 apologize if I do so, but --

12 A. So you're okay with doing that.

13 Q. I have seven hours. I have seven
14 hours, and I want to get this deposition
15 completed in that time.

16 A. Okay.

17 Q. And I apologize if we do that. I
18 apologize ahead, but...

19 So my question is: It's roughly a
20 date, a month, or a day, at which point you
21 decided, or woke up in the morning, as an
22 example, and said -- or were at work and
23 said, "I'm being discriminated against or
24 harassed here, based on my race or gender,

1 and I have a claim under the" -- "Title 7
2 under the law"?

3 A. Okay. Yeah.

4 I didn't really look at the claims
5 in a legal sense for race or gender until
6 maybe, like, April -- somewhere between
7 April 25th and May 4th.

8 Q. And if it's fair, what, if
9 anything, happened between May 25th [sic] and
10 May 4th that caused you or was the final
11 straw, if you will, that caused you to
12 determine that you may have a claim for race
13 or gender discrimination or harassment under
14 Title 7 against InductEV?

15 A. I'm trying to follow your words.

16 Okay. So what happened that made
17 me think to file.

18 Q. What happened between April 5th and
19 May 4th?

20 A. Yes. I have to repeat it because
21 when you're talking, I'm listening to your
22 volume and looking at your face, and, so, I
23 have to remember the words. And every time
24 you re-start, I lose my train of thought, so

1 I'm trying to get the answer as specifically
2 as you requested it in respect to your time.

3 So what happened that made me think
4 at that point that I -- that I needed to
5 sue -- that I had the right to sue under
6 those claims.

7 Judy Talis -- there -- there was a
8 dispute. Judy Talis called me while I was
9 home, basically telling me that the evidence
10 that I had, disability was not enough, and
11 that she needed to take out PTO to make up
12 for my time off of work.

13 Q. And you believe she did that
14 because of your race or gender or both?

15 A. I believe that she did that because
16 of race and gender, possibly also disability,
17 since it related to disability more
18 specifically.

19 Q. Well, briefly -- and we'll get into
20 this in more detail later, but I -- I take
21 that you did not want to have to utilize PTO
22 at the time that Ms. Talis told you you had
23 to?

24 A. That's correct.

1 for identification.)

2 - - -

3 BY MR. SCHAUER:

4 Q. I will show you what we've marked
5 as Exhibit AA-6. I'll ask you to take a
6 moment, review that exhibit. After you've
7 had an opportunity to review it, I -- my
8 question to you will be: Does this or is
9 this the job description for the senior
10 technician position that you applied for?

11 A. (Witness reviews document.)

12 No.

13 Q. Okay. Did you receive or have in
14 your possession at the time you interviewed
15 for your position at InductEV a copy of a job
16 description?

17 A. Yes.

18 Q. And do you think -- and this one's
19 different?

20 A. The one I had says, I believe, six
21 to eight years experience in a test
22 environment. This one says, "8+."

23 I mean, everything else, I would
24 assume, is identical.

1 Q. Well, take a moment and look at it.

2 A. (Witness complies.)

3 I mean, the front is the same.

4 Everything else looks identical.

5 Q. You mentioned that there -- you --
6 you recall that there was a different -- your
7 requirement in the -- the job description
8 that you had seen?

9 A. Right. I mean, I could be wrong.
10 I can't verify it.

11 Q. I'm not -- I'm not trying to trick
12 you.

13 I'm asking: Do you have a
14 different recollection of the job requirement
15 that was on the job description you reviewed
16 when you were applying for the job of senior
17 tech?

18 A. Right. Asked and answered. Yes.
19 Six to eight on the experience.

20 Q. Thank you.

21 Sometimes I miss things thinking
22 about the next question, so I apologize if I
23 repeat a question, or go over ground that was
24 covered.

1 too, that you're going, "Here's what they
2 did, here's what they knew. Here's what I
3 thought should happen. I can't think of any
4 explanation other than race and gender"?

5 I'm trying to understand your
6 claim.

7 A. Right. So the problem is -- they
8 had a similar situation. I was told when I
9 got hired, that I couldn't be given the
10 senior tech role because I didn't have enough
11 years experience, right.

12 Q. Okay.

13 A. Okay. That's their rule. That's
14 their policy. But, then, when they promoted
15 Seth and Omar, Omar had more than 20 years
16 experience, and since the job descriptions
17 are the same he was supposed to be hired with
18 that designation.

19 Q. We're talking about you.

20 A. And they didn't -- and they
21 promoted him at the same time as Seth. Seth
22 was white, and he did not fit the full
23 description.

24 Q. Do you know if all --

1 beyond the scope of the formal requirements.

2 No one ever told him those formal
3 requirements. And it's -- it's fine. It's
4 fine to not promote someone who fits the
5 formal requirements. That's subjective.

6 My problem is that they denied him
7 on the basis of experience. They denied me
8 on the basis of experience.

9 We are black, and they allowed Seth
10 to be promoted, and he deserved it, but he
11 didn't fit the formal requirements, and they
12 were willing to break the formal requirements
13 for a white man, but not for me and not for
14 Omar. And Omar deserved it more.

15 Q. At the time of Mr. Jackson's
16 promotion, had he been in the eng- -- the
17 field for six to eight years after the break?

18 A. Not after the break, no.

19 Q. Correct.

20 And I think you -- the
21 understanding you had was he didn't come in
22 as a senior technician because of the break
23 in his service of some five or six years,
24 correct, isn't that your understanding?

1 A. Yes.

2 Q. And that's what you feel was
3 unfair, right?

4 A. Absolutely.

5 Q. Okay. And you weren't there for
6 his interview or anything like that, were
7 you, when he was hired, right?

8 A. No.

9 Q. Okay.

10 A. I got to put these back on because
11 I can't really see without them, but...

12 Q. Is it fair to say that pretty much
13 the focus of your claims of improper
14 treatment because of your race and gender
15 center upon Judy Talis?

16 A. Judy Talis?

17 Q. Yeah, sorry.

18 A. It's okay.

19 Yes. Most of them, yes.

20 Actually, I think the biggest legal
21 one is her, yes.

22 Q. What's the biggest legal one?

23 A. I mean, I experienced harassment,
24 but I think the only -- the biggest thing

1 Q. And you've also recently filed a
2 Rule 54 Motion to -- I'm not sure what the
3 purpose of that is.

4 A. Oh, okay, yeah. Yes.

5 Q. I'm not sure what the purpose is,
6 you know, but that also is a document that
7 contains emails, evidence ostensibly in
8 support of your claims, correct?

9 A. Yes.

10 Q. And you're saying there's still
11 more that you're sitting on?

12 A. Yes.

13 Q. Okay. Do you have any idea what
14 those might be?

15 A. They're probably mostly just emails
16 or text messages, either from Judy or Joren,
17 I think. Yeah, I think so.

18 Q. Do you have any emails that -- on
19 the face of the email, do you remember the
20 judge's decision or the judge said, you know,
21 that the plaintiff is citing interactions or
22 communications that are not -- you know, do
23 not racially reflect gender or racial animus,
24 do you remember that?

1 A. (Witness complies.)

2 MR. SCHAUER: Okay. Why don't
3 you take your bathroom break.

4 THE WITNESS: Thank you.

5 MR. SCHAUER: And, then, we'll
6 talk a little more about Exhibit
7 AA-11.

8 We're off the record.

9 THE WITNESS: Okay.

10 THE VIDEOGRAPHER: The time is
11 now 11:47 a.m. We are going off
12 the video record. This concludes
13 Media Unit Number 2.

14 - - -

15 (Whereupon, there was a brief
16 recess held off the video record.)

17 - - -

18 THE VIDEOGRAPHER: Stand by.

19 The time is now 11:51 a.m. We
20 are going back on the video record.
21 This will begin Media Unit
22 Number 3.

23 BY MR. SCHAUER:

24 Q. Before the break, Ms. Acey, you

1 were asked to mark the portions of
2 Exhibit AA-11 and AA-11-A, Judy Talis'
3 evaluation, from April 28th, 2021, that you
4 believe reflect racial or gender bias or
5 animus or the part of Ms. Talis relative to
6 you and your career at InductEV.

7 Is it -- do I fairly state what you
8 were asked to do?

9 A. Yes.

10 Q. And did you do that?

11 A. Yes.

12 Q. And are you satisfied that you have
13 fully done that?

14 A. I believe so, yes.

15 Q. You weren't -- you weren't rushed
16 or anything.

17 You had enough time to do that?

18 A. Oh, I have, yes.

19 Q. Okay. So the first portion that
20 you wrote on is in Paragraph 1, a phrase near
21 the end. At the first section it says, "her
22 job as asked as well."

23 Tell me how that reflects or
24 relates or reflects -- excuse me, reflects

1 discriminatory animus on the part of
2 Ms. Talis towards you?

3 A. Attorney Schauer, if I can clarify,
4 I actually meant to start, like, here
5 (witness indicating) with the word, "she."

6 Q. Okay. That's -- that's fine.

7 "She understands the needs to do
8 her job as asked as well."

9 Tell me how that reflects some kind
10 of gender or animus -- I'm going to -- I'm
11 going to -- I'll use a more general word,
12 improper animus on the part of Ms. Talis?

13 A. Okay. For me it -- it connects
14 more to a statement, like, "Don't get ahead
15 of yourself." It connected more to ideas
16 of -- I guess, condescension.

17 I know historically when people
18 talk about forms of racial expressions with
19 black people, one of them was criticizing
20 them as being, like, "uppity," or "more
21 puffed up than they ought to be."

22 And when emphasized my ability to
23 do my job as asked, it kind of implied a
24 desire to go beyond the job task, or to be --

1 to think that -- it just -- it just felt
2 condescending. I'll just leave it there.

3 Q. Do you think that that sentence had
4 nothing to with the sentences that go before
5 it in the comment section of Paragraph 1?

6 A. I think it's connected in her train
7 of thought, but that's about it.

8 Q. Well, her train of thought is what
9 this case is pretty much about, isn't it,
10 Ms. Acey?

11 I mean, she's the -- she's the
12 primary focus of your claims of gender and
13 race discrimination and harassment, isn't
14 she?

15 A. So the first question, "her train
16 of thought," I believe the focus of this
17 Complaint is part of her thoughts, not
18 everything that she thought.

19 And the second one --

20 Q. Okay.

21 A. -- you asked if the -- the
22 claims -- the claims are based on -- on her
23 actions and her thoughts, yes.

24 Q. Okay. So her train of thought,

1 you're saying this last sentence isn't
2 connected to the prior or -- or the last
3 sentence of Box 1 in Paragraph -- of
4 Exhibit AA-11 -- AA-11, is separate and apart
5 from and reflects, you know, some kind of
6 separate idea or thinking of Ms. Talis?

7 A. Yes. Especially since --

8 Q. Okay.

9 A. -- the sentence starts with having
10 said that, which tells me that she wants to
11 set aside what she said at the beginning.

12 Q. Oh, it doesn't mean that
13 incorporating everything else that was said,
14 in addition you understand the need to do
15 your job as asked as well.

16 You -- you don't read it that way,
17 do you?

18 A. No. I read it as positive, my
19 qualifications, against -- or my
20 impressions --

21 Q. Okay.

22 A. -- of my qualifications against my
23 ability to do the job as asked.

24 Q. Is that, in part, because you

1 believe that Ms. Talis is fundamentally
2 has -- harbors gender or race animus?

3 A. Yes, at least subconsciously.

4 Q. Okay. And this is an example of
5 that, right?

6 A. Sure, yes.

7 Q. Okay. Let's go to, I guess, the
8 next place you have circled is, "She feels
9 the technician role is fundamental to
10 engineering."

11 Do you see that?

12 A. Yes.

13 Q. Is that something you said, or
14 something you communicated? It may not be
15 those exact words --

16 A. Sure.

17 Q. -- but is that something that you
18 said?

19 A. Sure. Yeah, I communicated
20 something like that.

21 Q. Okay. Well, let's -- let's go
22 through that -- let's go through that
23 additional comment from Ms. Talis.

24 A. Sure.

1 A. No. I mean --

2 Q. Did anyone require you to -- you --
3 you -- I think one of your complaints is that
4 you did work that was other than what you
5 understand to be the job of a technician.

6 Did anyone else do that, to your
7 knowledge?

8 A. Do what?

9 Q. Do work outside of the job
10 description of whatever their job was.

11 A. Not that I knew of.

12 Q. Was it -- did -- did -- did you
13 enjoy work that you say you did outside of
14 your job description?

15 A. Yeah, I -- I liked -- I liked the
16 work. I like working.

17 Q. Did you find it to be interesting?

18 A. Yeah.

19 Q. Okay. So your issue isn't with the
20 work that you were doing outside of what you
21 felt was your actual job description. It's
22 the fact that you think that you had a
23 contract that said you only had to do certain
24 things; is that right?

1 A. Yes.

2 Q. Okay. You were -- do you -- are
3 you familiar with the concept of an at-will
4 employee?

5 A. Yes.

6 Q. Okay. Were you an at-will
7 employee?

8 A. I think so. I think this is an
9 at-will state.

10 Q. But you didn't have a contract that
11 said you'll be there for a year or two years
12 unless you or -- (Inaudible) something?

13 A. Oh, yeah, I think the -- the offer
14 of employment says, "at-will." So, yes, I
15 was at-will.

16 Q. Okay. Okay. So let's keep going
17 here.

18 And, then, there's a statement,
19 "She feels the technician role is fundamental
20 to engineering."

21 Now, did you say that? You have it
22 circled.

23 Did you say that sentence?

24 A. That "the technician role is

1 to them that I wanted to become a patent
2 scientist.

3 Q. Any chance that, perhaps,
4 Mr. Rosenberger may have been being a little
5 defensive about him being a technician, and
6 you with the qualifications and things that
7 you have?

8 A. I mean --

9 Q. If you know.

10 A. I don't know. I mean, he -- he
11 showed signs of insecurity with other people,
12 so it's possible.

13 Q. I don't know him.

14 A. I've -- I've worked with him. I've
15 seen him. His desk was right next to mine.
16 I know when he would start smoking, because I
17 would smell it. I remember his hands, his
18 glasses, his wife, even though I've never met
19 her. I've just heard the calls.

20 Q. All right.

21 A. Yeah.

22 Q. Did you have any reason to believe
23 that Mr. Rosenberger -- well, Mr. Rosenberger
24 is also a senior technician or was.

1 A. Yeah.

2 Q. Was he involved in -- you know,
3 really involved in the decision to hire you
4 or not in the sense of management?

5 A. He wasn't management. But when we
6 decided to hire someone after a job process,
7 everyone waited. And I believe his or a
8 teammate's notes are written in the manager's
9 evaluations as well.

10 Q. Okay. All right.

11 Well, you've seen these documents,
12 so I'll move forward, I believe.

13 - - -

14 (Whereupon, Exhibit AA-13,
15 Momentum Wireless Power Interview
16 Evaluation Form, was marked for
17 identification.)

18 - - -

19 BY MR. SCHAUER:

20 Q. Let me show you Exhibit AA-13.
21 This is the Interview Evaluation Form by
22 Mr. Rosenberger, dated --

23 A. Yes.

24 Q. -- May 14, 2021.

1 You see that?

2 A. Yes.

3 Q. Okay. And I think you said that
4 you had seen this document in the production
5 that's been made in this case?

6 A. Yes.

7 Q. Is there anything that you can
8 point to me in this document --

9 A. Yes.

10 Q. -- Exhibit AA-13, that you believe
11 reflects some kind of animus towards you
12 based upon race or gender?

13 A. No.

14 (Witness reviews document.)

15 I do believe it was an insincere
16 evaluation, but I don't see any animus on it.

17 Q. You think it was insincere?

18 A. Yes.

19 Q. Well, what -- what -- what's your
20 basis for that conclusion?

21 A. One day when the contention with
22 Rob was a little bit bigger, he gave me this
23 evaluation as proof that he didn't have any
24 hard feelings against me, but it's also in

1 the messages of me overhearing Judy arguing
2 with him about what he wanted to put in
3 someone else's performance evaluation and
4 telling him what he can't put in it.

5 So, for my knowledge, I just
6 believe it's too probable that it wasn't
7 sincere, especially the way that he -- he
8 treated me, and -- yes.

9 Q. Are you saying that he essentially
10 was kind of doing a little CYA --

11 A. Yes.

12 Q. In the back --

13 A. Yes.

14 Q. -- against what might come later?

15 A. I don't even know if it's a "might
16 come later." I don't know if he felt guilty.
17 I just know one day he handed it to me, and
18 intimated it as proof that he never had hard
19 feelings against me.

20 I mean, at one point, he gave me a
21 red cabbage. I think that's also in the
22 messages. I was very confused. But, again,
23 I assumed it was in the same direction.

24 Q. Just briefly, he just gave you a

1 red cabbage?

2 A. Yes. One day instead of yelling at
3 me or criticizing me, he presented me with
4 this random red cabbage. I was very
5 confused. I think I messaged my boss and
6 asked him if it was poisoned. Now, that's
7 probably not rational, but I was confused. I
8 mean, he just...

9 Q. Well, what was the context in which
10 he gave you a red cabbage?

11 A. The same context as this evaluation
12 form, I guess. Just trying to make it seem
13 like he wasn't mad at me, or, like, he was --
14 maybe he felt guilty, I don't know. I don't
15 even eat red cabbage, um, so I don't know.

16 Q. Did he give a red cabbage to
17 anybody else in the office --

18 A. No.

19 Q. -- if you know?

20 MR. SCHAUER: Let's look at
21 the -- next, we have an evaluation
22 here.

23 We'll mark it as Exhibit

24 AA-14.

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(Whereupon, Exhibit AA-14,
Momentum Wireless Power Interview
Evaluation Form, was marked for
identification.)

- - -

BY MR. SCHAUER:

Q. I apologize.

On this one, I apparently did not
capture the portion in -- in the comments
section. I guess I have to figure that out
at some point in time.

A. That's all right.

Q. So, tell me, Seth Wolgemuth --

A. Wolgemuth.

Q. Okay. He was a senior technician?

A. He started off as a normal one. He
was promoted around, like, November. They
sent out a company email to welcome him, I
think.

Q. Okay. It says that as of May 17th,
2021, he was -- oh, his position -- he was
promoted with Omar; is that right?

A. Yes. So this is the position --

1 that's the position he was interviewing me
2 for.

3 Q. Yeah. All right.

4 So have you or did you have the
5 opportunity to review this particular review
6 form in the course of receiving the discovery
7 in this case?

8 A. Yes.

9 Q. And take your time and look at it
10 now, and, as well, based upon your prior
11 review of the document, was there anything in
12 here that you feel particularly reflects some
13 kind of, you know, animus towards blacks or
14 women?

15 A. (Witness reviews document.)

16 No.

17 Q. Do you think his review was
18 sincere?

19 A. Absolutely.

20 Q. Was -- I was going to say, "Seth."
21 Was he there the whole time that
22 you worked at InductEV?

23 A. Yes.

24 Q. Let's go to the last -- Section 4.

1 A. (Witness complies.)

2 Q. There he says, "My only real
3 concern is her not being satisfied in this
4 position and leaving us without an
5 experienced tech in the role a year from
6 now."

7 Do you see that?

8 A. Yes.

9 Q. That -- you were comfortable with
10 that assessment made by Seth?

11 A. Yes. It's almost -- it's very
12 close to the discussion I had with Judy
13 beforehand.

14 Q. Okay. Did you have any reason to
15 believe, based upon your time working at
16 InductEV, that Mr. Wolgemuth harbored any
17 particular animus towards you based upon
18 gender or race?

19 A. I wouldn't call it animus. He was
20 protective if somebody appeared to be biased,
21 but he's also a very quiet, very kind person.

22 MR. SCHAUER: And Exhibit

23 AA-15.

24 - - -

1 A. Yes.

2 Q. -- which is an offer letter for you
3 to begin on June 7, 2021.

4 Do you see that?

5 A. Yes.

6 Q. I also believe that it -- was at
7 some point the letter modified to have you
8 start on June 14th, 2021?

9 A. Yes, it did.

10 Q. But other than that change -- and I
11 apologize for not having that exact document,
12 but other than that change, is the offer
13 letter that you received and accepted from
14 InductEV the same as Exhibit AA-16?

15 A. No. They changed the date, and I
16 think they changed the hourly rate. I'm not
17 sure. I -- I know there was some negotiation
18 of the hourly rate, and she updated the
19 offer.

20 Q. Do you recall what the hourly rate
21 was that you received when you began at
22 InductEV?

23 A. I want to say \$34 per hour.

24 Q. And were you an hourly non-exempt

1 And he asked about, you know,
2 whether I run, and I was excited. I was,
3 like, "Well, you know, not" -- "not as much."

4 But I -- you know, I thought it was
5 a fun conversation, but when he found out
6 that I didn't run, he looked -- he started
7 frowning, almost in a cartoonish way, but I
8 guess he wasn't happy. And I guess the topic
9 of ice cream came up and he was looking at me
10 and he mentioned dark chocolate.

11 The exact words he stated were
12 probably more accurately recounted to my
13 boss, I believe, like, a day or two after we
14 had teams, but I can't remember his direct
15 quotes right now.

16 Q. When you say you shared his comment
17 that bothered you with your boss, do you
18 know, did Joren speak with Bogdan?

19 A. No. He just said it was weird, and
20 that he had noticed a creepy vibe from him
21 before. And we agreed that if it ever came
22 up for me to have to work with Bogdan or be
23 in the same room, he would support me keeping
24 a healthy distance.